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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951 was presented to Lok Sabha on the 1st November, 1966:—

Composition of the Committee

Shri S. V. Krishnamoorthy Rao—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Bhagwat Jha Azad
3. Shri N. C. Chatterjee
4. Shri Homi F. Daji
5. Shri N. Dandeker

6. Shri Shree Narayan Das
7. Shri A. K. Gopalan
8. Shri Hari Vishnu Kamath
9. H.H. Maharaja Karni Singhji of Bikaner
10. Shri Madhu Limaye
11. Shri Ghanshyamlal Oza
12. Shri Vishwa Nath Pandey
13. Shri C. R. Pattabhi Raman
14. Chowdhary Ram Sewak
15. Shri Shivram Rango Rane
16. Shri H. C. Linga Reddy
17. Shrimati Yashoda Reddy
18. Shri Sham Lal Saraf
19. Shri Era Sezhiyan
20. Shri T. H. Sonavane
21. Shri U. M. Trivedi
22. Shri Tula Ram
23. Shri Amar Nath Vidyalankar
24. Shri Radhe Lal Vyas

Rajya Sabha

25. Shri Chandra Shekhar
26. Shri R. S. Khandekar
27. Shri Chitta Basu
28. Shri S. S. Mariswamy
29. Shri Jagannath Prasad Pahadia
30. Shri R. T. Parthasarathy
31. Shri K. V. Raghunatha Reddy
32. Shri Biren Roy
33. Shri A. K. A. Abdul Samad
34. Shri Shraddhakar Supakar

35. Shrimati Tara R. Sathe

36. Shri G. S. Pathak

REPRESENTATIVES OF THE MINISTRY OF LAW

1. Shri S. P. Sen Varma, *Secretary, Legislative Department.*

2. Shri A. K. Srinivasamurthy, *Deputy Legislative Counsel.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951 was referred, having been authorised to submit the Report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 29th August, 1966. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri G. S. Pathak, the Minister of Law, on the 1st September, 1966, and was discussed on the 1st, 2nd and 3rd September, 1966, and adopted on the 3rd September, 1966.

3. Rajya Sabha discussed the motion on the 6th and 7th September, 1966 and concurred in the said motion on the 7th September, 1966.

4. The message from Rajya Sabha was reported to Lok Sabha on the 7th September, 1966.

5. The Committee held seven sittings in all.

6. The Committee considered the Bill clause by clause at their first to sixth sittings held on the 10th to 14th and 17th October, 1966, respectively.

7. The Committee considered and adopted the Report on the 31st October, 1966.

8. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in succeeding paragraphs.

9. *Clause* 4.—The word "full" has been omitted from sub-section (1) of proposed section 8 of the 1950-Act, as it is redundant.

10. *Clause* 9.—The Committee feel that the electoral rolls should be revised, unless otherwise directed by the Election Commission for reasons to be recorded in writing, before each General Election and before each bye-election to Lok Sabha or a State Legislative Assembly.

Proposed sub-section (2) of section 21 of the 1950-Act has been amended accordingly.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 29th August, 1966.

11. *Clauses* 13 *and* 14.—Consequent on the orders of the Delimitation Commission under the provisions of the Delimitation Commission Act, 1962, or under the provisions of the Government of the Union Territories Act, 1963, and the enactment of the Punjab Reorganisation Act, 1966, the First and Second Schedules to the 1950-Act have been substituted by Schedules which respectively indicate the allocation of seats in the House of the People and the total number of seats in the Legislative Assemblies, as on the 1st November, 1966 and subsequent thereto.

12. *Clause* 20.—The Committee consider that an opportunity of being heard should be given to the person before the Election Commission issues a certificate to the effect that the said person has been dismissed for corruption or disloyalty to the State for the purposes of sub-section (1) of proposed section 9 of the 1951-Act.

Sub-section (2) of proposed section 9 has been amended accordingly.

The Committee are also of the opinion that a person should incur disqualification when a contract with the appropriate Government etc., though entered in the name of other persons is actually for his benefit. The Committee also feel that contracts not only with the appropriate Government but also with companies or corporations in the capital of which the appropriate Government has 25 per cent or more share should disqualify a person. Likewise, the Committee also feel that not only contracts for the supply of goods to or execution of works but also contracts for performance of services undertaken by the appropriate Government should disqualify a person. As it is doubtful whether supply of goods will also include supply of animals, the word "animals" has also been added.

Proposed section 9A has been redrafted accordingly. The Committee have also omitted the word 'director' in the proposed section 10 of the 1951-Act, as it was not the intention to disqualify a director of a company in the capital of which the appropriate Government held share of 25 per cent or more, unless he is specifically disqualified under a particular law.

13. *Clause* 27.—The Committee feel that there should be no change in the period between the last date for the withdrawal of candidatures and the commencement of the poll; accordingly, sub-clause (c) of the clause has been omitted and sub-clause (d) has been re-lettered as sub-clause (c).

14. *Clause* 34.—The amendment made in the clause is of a drafting nature to make the intention clear.

15. *Clause* 38.—The Committee are of the opinion that a High Court may, in the interests of justice or convenience, try an election petition, wholly or partly, at a place other than the seat of the High Court.

A new sub-section (3) has accordingly been added after sub-section (2) of the proposed section 80A of the 1951-Act.

16. *Clause* 54.—The Committee consider that the period of ban on holding election meetings should be reduced from forty-eight hours to forty-two hours ending with the hour fixed for the conclusion of the poll.

Proposed sub-section (1) of section 126 of the 1951-Act has been amended accordingly.

17. *Clause* 57.—The Committee feel that an offence under section 133 of the 1951-Act for illegal hiring or procuring of conveyances at elections should not be made a cognizable offence as it might result in unnecessary harassment of candidates.

Clause 57 has been redrafted omitting proposed sub-section (2) of section 133 of the 1951-Act.

18. *Clause* 59.—The Committee are of the view that there should be some stricter punishment for the Government servants for acting as election agent, polling agent or counting agent of a candidate at an election.

Proposed section 134A of the 1951-Act has, therefore, been amended to provide for punishment not only with fine but also with imprisonment for a term which may extend to three months or with both.

19. *Clause* 62.—An amendment has been made in clause 62 for retaining Chapter IV of Part VIII of the 1951-Act relating to the powers of Election Commission in connection with inquiries as to disqualification of members.

20. Consequential changes have been made in clauses 2, 4, 55 and 58 by suitably amending sub-section (5) of proposed section 3 and sub-section (3) of proposed section 7 of the 1950-Act and sections 129 and 134 of the 1951-Act, respectively.

21. The Committee recommend that the Bill as amended be passed.

S. V. KRISHNAMOORTHY RAO,
Chairman,
Joint Committee.

NEW DELHI;
The 31st October, 1966.

MINUTES OF DISSENT

I

The Bill has been brought forward, as stated in the Statement of Objects and Reasons, to give effect to some of the recommendations of the Report on the Third General Elections in India in the year 1962. But a thorough and comprehensive amendment of the 1951 Act is necessary in order to plug the loopholes which facilitate the corrupt practices in the election. The Bill, therefore, at the first instance, does not meet that much-felt need.

2. The Bill does not seek to so re-define and codify the corrupt practices in the light of experiences of past elections as to include all forms of corrupt practices allegedly indulged in by many candidates to win the election. The Bill further does not seek to put adequate curbs on the ever-increasing expenses for the election which preclude any scope of free and fair election. This trend, if not adequately combated, would ultimately turn the election into a mockery. This Bill, viewed in this background, is disappointing to a very large extent. The Bill, on the other hand, seeks to disqualify any person who has been sentenced to two years of imprisonment by any court of Law in India, for contesting in any election. In the context of increasing tendencies of the Government to resort to more and more undemocratic legislative measures to suppress the fast growing democratic movements in the country, this provision is likely to debar many political and Trade Union leaders from contesting in the elections in days to come.

3. This does not certainly augur well with a country which wants to strengthen the base of democracy.

Hence this note of dissent.

NEW DELHI;
The 31st October, 1966.

CHITTA BASU.

II

I feel that the Bill under consideration, though some of the amendments there are in the right direction, does not on the whole go far. It touches only the fringe of the problem, whereas the malady is deeper.

2. In a democracy, election is the device by which people are able to record their reactions to the political issues of the day. So it is imperative that this device should be able to give results as accurate, as reliable and as impartial, as it is possible for human ingenuity to make. If the device is defective and if the known defects are continued to be tolerated just because it is in the interests of a particular party or regime, then there is no escape from the slow decline of democracy and the rise of oligarchy or dictatorship in its place. If, in a grocery, the balance is defective and the weights are debased, then the weighing cannot be accurate and the buyer is cheated in the process. So also, in a democracy, if the mechanism of election is kept defective, then the voters who rely on such a process are cheated in the bargain.

3. The past three elections have exposed many defects and drawbacks in the mechanism of election in our country. Many a person was able to "win" the elections and enter the sacred halls of legislatures in a triumphant procession, even after open and deliberate flouting of the letter and the spirit of the election laws in force. On several instances, the enforcement of the law was weak; in some cases, the law has been ambiguous, in others silent; even where the statute is explicit the offenders have been able to overcome the scruples of law with the aid of money and the connivance of authority. Unless the defects in the law and the malpractices during the times of elections are thoroughly examined and effective solutions found candidly, the election may, in course of time, become a farce and a mockery of democracy and the membership of a legislature a market commodity put in auction for the highest bidder with money to lift it.

4. None can plead ignorance to the election malpractices: those in power probably know more about them. But so far no effective steps have been taken to remedy the situation, to free the elections from the known abuses and malpractices, some of which are listed below:—

(1) Capacity to spend fabulous amounts of money, white or black, has become the most favourable qualification for a candidate to enter the field of election, the chief culprit in this direction being

the ruling party itself. Huge spending presupposes huge collections. Naturally the party in power with the aid of numerous permits, licences, contracts, favours etc., is able to compel and to attract huge donations to its election funds. Elderly statesmen have condemned this practice; eminent judges have warned the country of the grave consequences. The Chief Justice of Bombay, Mr. M. C. Chagla, while delivering his learned judgement in the famous case *J. R. Koticha vs. Tata Iron & Steel Co. Ltd.* gave a forceful warning that "any attempt on the part of anyone to finance a political party is likely to contaminate the very springs of democracy." Unless the contaminating influence of big money is eliminated, the clear spring of democracy will be turned into a poisonous pool of corruption.

(2) The limits of election expenses are there set in the statute, but observed in breach by many. The Election Commission in their report on the Third General Elections have stated that "After the experience of the General Elections of 1962, the Commission reiterates its view that the legal provision relating to election expenses as they stand at present are of no use and call for drastic amendments or total repeal." The Report has further pointed out that the prescribed maxima have become "quite unreal and meaningless." It is beyond my understanding why such an "unreal and meaningless" provision should be maintained without being radically amended and effectively enforced. It makes the whole process of election and functioning of democracy unreal and meaningless.

(3) The use of Governmental machinery for the party ends, during and before the elections is widespread. The opposition parties have to contend not only with the ruling party but also with the huge administrative machinery whose strangle-hold on the rural people and poorer section can not be belittled. The distinction between the Government and the ruling party is obliterated and when the Ministers go on tour for election propaganda, they are always accompanied by high officials in the district. The Minister gives various promises and the officers standing by readily support them with assurances of early action. To ensure a free election, the Ministers should resign before the election or abstain from making official tours.

(4) Now I come to the most serious and fundamental defect in the basic system of voting and of counting in our elections. The present system of one constituency returning only one member does not indicate the real strength or proportion of distribution of various shades of political opinions in the constituency and in the country.

The present system enables a party with a minority of votes secure majority seats in the legislature. The following table gives the percentages of votes and seats secured by the Congress Party in the last three General Elections to the House of the People:—

Year of the General Election	Percentage of votes polled by the Congress to the total votes polled	Percentage of seats in the House of the People secured by the Congress Party
1952	45 per cent	75 per cent
1957	48 ,,	75 ,,
1962	45 ,,	73 ,,

With minority of votes polled, the Congress Party was able to secure consistently a very high percentage of seats. As long as the unit of election is a constituency returning a single member, it is impossible to reflect more than one shade of opinion from that constituency. In the present first-past-the-post system, it is possible for a party with 45 per cent of the votes to annex 75 per cent of the seats and it is equally possible for a party with 49 per cent of the votes to claim no seat at all. In the place of the present procedure of single member constituency, the system should be changed to one with multi-member constituencies with proportional representation way of voting and counting. This will allow representation in proportion to the distribution of public opinion on political parties and issues.

5. I am not unaware that these changes will be possible only if radical and extensive amendments are effected not only to the Representation of the People Acts, but also to the Constitution, the Companies Act, etc. But the need to make these extensive amendments is urgent.

6. Clause 5 of the Bill provides for designation or nomination of a District Election Officer. This is a welcome feature. But neither his work nor his status has been defined in the Bill. It is desirable that the District Election Officer should be able to command the respect and the confidence of the candidates and the people. To ensure this, a judicial officer of sufficient status should always be chosen for this post.

7. In clause 11 of the Bill amending section 24 of the 1950-Act, provision should have been made for an appeal to the Chief Election Commissioner from any order of the Chief Electoral Officer, under Sub-section (a). When the Chief Election Commissioner came to the sitting of the Committee on the 15th October, 1966 to explain certain functions of the Chief Electoral Officer, he narrated one instance wherein the Chief Electoral Officer in a State removed at one stroke more than 100 names from the electoral list and on an appeal, the Chief Election Commissioner had to intervene and restore all of them. This shows how essential is the right to appeal. The very provision of an appeal will act as a deterrent on the officers concerned.

8. Sub-clause 8(2) of clause 20, imposes a disqualification for five years on 'a person convicted by a court in India for any offence and sentenced to imprisonment for not less than two years'. This is very wide and sweeping. With the witch-hunting of opposition parties in times of any agitation which may have arisen entirely due to the misdeeds and misrule of the ruling party, with sweeping powers of the new Ordinances, being promulgated by the State Governments, a person may, even for a just criticism of political nature, be convicted for more than two years. A bad law may leave the courts helpless. There can be no two opinions that persons who indulge in violent acts and heinous crimes, who have been found guilty of deeds involving moral turpitude, should be disqualified even for longer periods than contemplated now. But to put a blanket disqualification on 'any offence' may prove to be Draconian in operation. It is thus very important to define the nature of the offences to be covered under this sub-clause.

9. The entire Chapter of 'Disqualifications' should have been considered with a wider perspective and no change should be provided to disqualify and to suppress the rights of the members of Opposition parties. Equally no chance should be given there for undesirable and anti-social elements to swamp the legislatures. When law-breakers enter a law-making body, they will become a law into themselves and while they prosper, the entire edifice of democracy will crumble down.

NEW DELHI;
The 31st October, 1966.

ERA SEZHIYAN

III

I maintain that in spite of some improvements made by the Joint Committee on the Representation of the People (Amendment) Bill, 1966 there is still scope for improvement and I am, therefore, constrained to submit this Note of Dissent.

2. It is satisfying that the Government have, at last, accepted the suggestions made that the High Court should be authorised to try an election petition at a place other than the seat of High Court. It is absolutely essential that in a State like that of West Bengal, the High Court in the interest of justice should permit election petitions to be heard, say, at Darjeeling or at Kalimpong, or at some other suitable place in north Bengal where trial would occupy a long period and may involve the reception of evidence of witnesses on questions of fact. People have faith in the High Court and it is expected that the Judges of the High Court will be in a position to render satisfactory decisions in the election cases. But we know that the High Courts are over-worked and there is large accumulation of arrears in different High Courts. It is desirable that in the interest of speedy trial of election cases the High Court Judges should hold the trials at different places so as to reduce the cost of litigation as also to minimise the inconvenience of witnesses and litigants.

3. I am definitely of the view that the greatest impediment to free and fair election is the undesirable practice of Ministers moving about in constituencies making large promises and distributing favours just before the Election. As a matter of fact, all Opposition parties are placed to great disadvantage because of the system of Ministers touring about specially in rural areas and these pre-poll activities are detrimental to fair elections because the poorer sections are susceptible to Ministerial promises and pressures. Therefore, it is desirable that for at least two or three months before the Election, the Government should resign and there should be some care-taker Government installed just to carry on the administration. The President may be authorized to take suitable actions in this behalf. If necessary, the Constitution may be suitably amended for this purpose.

4. Provision should be made by the Election Commission and necessary directions should be issued by the Election Commission so as to secure polling booth in every village. It is also desirable that there should be a polling booth for 500 electors in urban areas as also in big villages. There is a lot of abuse with regard to the use

of vehicles specially on the part of the ruling party. The prohibition of use of vehicles is rendered nugatory by many devices. A larger number of polling booths will to a large extent make the use of vehicles unnecessary and at the same time permit greater exercise of franchise, specially in the rural areas.

NEW DELHI; N. C. CHATTERJEE
The 1st November, 1966.

IV

We agree with the Report of the Committee subject to the following points of dissent:

1. Elections in India are becoming very costly and unless something drastic is done to reverse this position our democracy may very soon degenerate into an oligarchy of the nominees of the rich. With this view we suggest the following provisions be incorporated in the Amendment Bill:

(a) A total ban on the use of vehicles on the election day except for the aged, the sick and the disabled and for candidate and election agents.

(b) The maximum limit of expenses allowed to be incurred should also include amounts spent by friends, and political parties in furtherence of the candidature of the candidate concerned. At present the limit applies only to expenses by the candidate and not to the monies spent by friends and others. This lacuna should be plugged.

(c) Postage should be given free to all candidates for posting at least one appeal to all the electors.

(d) Voters identity cards with their electoral number and the place of polling shown on it should be distributed by the Government. This will obviate the candidates' expense for doing the same.

(e) A replica of the ballot paper showing the names of candidates and their symbol should also be distributed by the Government to all elector and candidates and others should be barred from distributing any such ballot papers.

2. The law prohibits a person holding an office of profit or a contract under the Government from contesting the elections. We feel that the same principle be extended to such of the princes as draw the privy purse from the public treasury. Not to include privy purse as an office of profit is wrong in principle and unjust in practice, as a commoner seeking election against the prince with his money power and social status and privilege has to face an unequal contest. This will help the growth of healthy democracy and curb the influence of vested feudal interest from corroding the democratic structure.

3. We feel that in Chapter III clause 8(2) disqualification based on merely the length of sentence undergone is inequitable and unjust. In our view disqualification should attach only in cases of offences involving moral turpitude. The criminal law and the punishment provided therein also reflect the socio-economic structure of the society. It is regrettable that as at present one guilty of adulteration of foodstuff or medicine can get away with a short sentence or even only with fine. Not to disqualify such persons, and disqualify others for such offences as "instigating an illegal strike" is obviously unjust and undemocratic. We, therefore, feel that no disqualification should be attached unless the offence is one involving moral turpitude and antisocial offences though they carry minor sentences should attract disqualification. Similarly the disqualification should extend not beyond two years since the release of the persons concerned and not five years as at present.

4. The attempts to expedite the disposal of election petitions is very welcome, as at present in some cases, and particularly in cases of important personalities of the ruling party the election petition are known to drag on till the next elections. With this view it has been decided that the petition shall be tried by a Judge of the High Court. While welcoming this we would like to suggest and stress that to make the remedy available to the common man it should be incumbent on the Judge of the High Court to try the petition at the district place of the constituency concerned. If the petition is tried at the seat of the High Court in many cases the petitioner or the opponent will have to go to a distance of 700 to 800 miles to get justice. This may prove impossible for an ordinary man and thus deny him the relief to which he is entitled under the law.

NEW DELHI;
The 1st November, 1966.

HOMI F. DAJI
A. K. GOPALAN
MADHU LIMAYE

V

It is a matter for gratification that the Joint Committee has been able to make quite a few salutary changes in the Bill, which once again reinforces my conviction that a Parliamentary convention should be established so that all Bills, unless they are of a minor or routine character, should be referred to a Joint Committee.

2. Even so, I am of the view that there is still scope for further amending this important Bill. As, however, I do not wish to cumber this note with too many suggestions, I shall set forth only some salient points which should be incorporated in the measure.

3. I regret that in Chapter II, provision has not been made for specifically allocating two seats in Lok Sabha to the occupied territory of the State of Jammu and Kashmir, and keeping them vacant till such time as that is not liberated. If such an arrangement could be made long ago in regard to the Jammu and Kashmir Legislative Assembly, wherein 25 seats have been allocated but kept vacant, I see no reason why it cannot be made in the case of the House of the People.

4. Secondly, it should be possible in the case of the Legislative Assembly of the State of Nagaland, to extend the principle of direct election to the Tuensang district of that State.

5. Chapter III deals with disqualifications for membership. I believe that persons convicted of blackmarketing, hoarding, profiteering, or adulteration of foods and drugs—all antisocial crimes widely prevalent today—should be disqualified, whatever the sentence.

6. A person found guilty of a corrupt practice should incur disqualification for a longer period than six years.

7. The power conferred on the Election Commission to remove any disqualification or reduce the period of such disqualification should be suitably curbed, so as to provide that in no event should such disqualification be tampered with by the Commission before the following General Election. It is unfortunate that recently a member of Lok Sabha disqualified by an Election Tribunal, which was upheld by the High Court, was enabled by the Election Commission to contest a bye-election within six months of his having incurred the disqualification.

8. A promise or offer of a new undertaking or project within a constituency by a Minister or an officer of Government during the

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period from the first day of nomination to the day of polling should be deemed to be a corrupt practice.

9. The Rules made under section 28 of the Representation of the People Act, 1950 as well as those under section 169 of the Representation of the People Act, 1951, neither of which is being sought to be amended by the Bill—should be laid before each House of Parliament in this Session, and well before its close, so that Parliament can modify them if necessary. Otherwise Rules unscrutinized by Parliament will pass muster, and may become an unfair weapon in the hands of the Central Government who are only obliged to consult, but not to concur with the Election Commission while making rules for carrying out the provisions of the Act.

NEW DELHI; H. V. KAMATH
The 1st November, 1966.

VI

The present system of election involves a good deal of expenditure which is unnecessary and can be cut down. The object of this Bill should be to increase the number of efficient and good candidates to contest the elections. That is only possible if the election expenditure, which actually in most cases is much more than the statutory limit, is cut down to the barest minimum and is within the easy reach of people of meagre means also. Under the present system of voting election expenses are high, as besides other things, a lot of money is wasted by the candidates in acquiring the vehicles to transport the voters to the polling booths. Though the Act now prohibits the use of vehicles for transporting voters to polling booths but this clause is more used in contravention than in observance.

2. Then the low percentage of voting during elections is attributed to the long distances, specially in rural and hilly areas, which the voters have to travel to reach the polling booths. It entails quite an expenditure for poor people and also loss of time. Therefore, many people preferred to abstain from exercising their franchise. To increase the percentage of voting, the best thing is to adopt the mobile polling booths to move from house to house to enable people to vote without any inconvenience.

3. It was for these reasons that an amendment was tabled but unfortunately in the absence of adequate support in the Committee, the amendment was rejected. In spite of this, we feel the Government and Parliament must give a fresh thought to this important aspect of our election system.

4. Then we know that a majority of our voters are illiterate and many of the candidates cash on that, especially the politicians in position by way of distributing small favours just before the elections. These gestures, though amount to corrupt practices, cannot be challenged before the Tribunal and hence the Opposition candidates are placed in a disadvantageous position. Therefore, for the conduct of impartial elections, we feel it is necessary for the Government to resign from office three months before the elections and allow the President of the Union to take over the administration. If necessary, the Constitution can be amended for the purpose.

NEW DELHI;
The 1st November, 1966.

S. S. MARISWAMY
A. K. A. ABDUL SAMAD

VII

I agree with the Report of the Committee with the following observations:—

2. The Sovereign Democratic Republic of India was constituted after the break from the foreign rule and the abolition of the predatory feudal States. The Rulers of Indian States and the foreign rulers made their exist from the Indian administrative scene. But the privileges of the Rulers are preserved in the form of their privy purses and their enormous personal wealth and to that extent their capacity to vitiate our democratic way of life remains un-impaired.

3. To keep the democratic stream clean it is essential that the rulers receiving privy purses from the Consolidated Fund must be disqualified from seeking elections to Parliament and the State Legislatures. The racial and parochial bondage in the erstwhile Indian States assumed a menacing proportion in the form of blind adherence by the electorate to their ex-rulers when they offered themselves for election, since they still carry an aura of their erstwhile traditional authority which paralyses the free exercise of democratic right to vote.

4. The common man feels handicapped in the extreme to enter the arena of elections in this unequal contest.

5. An appeal to the electorate on the merits of the social, economic and political philosophies otherwise competing for attainment of the objectives, set before this republic by this Indian Constitution, thus becomes impossible.

6. I am therefore, strongly of the opinion that an additional section be added to the provisions for disqualification in the Representation of the People Act, 1951 to the effect that a ruler or an ex-ruler entitled to receive the Privy Purse or any sum in lieu thereof out of the Consolidated Fund of India be disqualified from contesting elections.

NEW DELHI; CHANDRA SHEKHAR

The 1st November, 1966.

Bill No. 58-B of 1966.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL, 1966

(AS REPORTED BY THE JOINT COMMITTEE)

[*Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.*]

A

BILL

further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1966. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

Substitution of new sections for sections 3 and 4.

2. For sections 3 and 4 of the Representation of the People Act, 1950 (hereafter in this Chapter referred to as the 1950-Act), the following sections shall be substituted, namely:— 43 of 1950.

Allocation of seats in the House of the People.

"3. The allocation of seats to the States in the House of the People and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of each State shall be as shown in the First Schedule.

Filling of seats in the House of the People and parliamentary constituencies.

4. (1) The seat allotted in the House of the People under section 3 to the Part B tribal areas shall be the seat to be filled by a person nominated by the President.

(2) Save as aforesaid, all the other seats in the House of the People allotted to the States under that section shall be seats to be filled by persons chosen by direct election from parliamentary constituencies in the States.

(3) Every parliamentary constituency referred to in sub-section (2) shall be a single-member constituency.

(4) Every State to which only one seat is allotted under section 3 shall form one parliamentary constituency.

(5) Save as provided in sub-section (4), the extent of all parliamentary constituencies in each of the States of Haryana, Punjab and Himachal Pradesh shall be as determined by the order of the Delimitation Commission made under the provisions of the Punjab Reorganisation Act, 1966, and the extent of all other parliamentary constituencies shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Commission Act, 1962, or, as the case may be, under the provisions of the Government of Union Territories Act, 1963.". 31 of 1966. 61 of 1962. 20 of 1963.

Provision as to sitting members in certain cases.

3. Notwithstanding anything contained in section 2 the members representing immediately before the commencement of this Act each of the States of Jammu and Kashmir and Nagaland and each of the Union territories of the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli in the present House of the People shall continue to represent each such State or each such Union territory until the dissolution of the present House of the People and so often as before such dissolution any seat allotted to each such State or to each such Union territory in the

present House of the People becomes vacant, it shall be filled by a person nominated by the President and that person shall represent that State or that territory in the present House of the People until its dissolution.

4. For section 7 of the 1950-Act, the following shall be substituted, namely:— Substitution of new sections for section 7.

"7. (*1*) The total number of seats in the Legislative Assembly of each State specified in the Second Schedule, to be filled by persons chosen by direct election from assembly constituencies, and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State, shall be as shown in that Schedule: Total number of seats in Legislative Assemblies and assembly constituencies.

Provided that for the period referred to in clause (2) of article 371A, the total number of seats allotted to the Legislative Assembly of the State of Nagaland shall be forty-six, of which—

(*a*) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council, referred to in that article, from amongst themselves in such manner as the Governor, after consulting that council may, by notification in the Official Gazette, specify, and

(*b*) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State.

(2) Every assembly constituency referred to in sub-section (*1*) shall be a single-member constituency.

(3) The extent of each assembly constituency in the State of Nagaland shall be as determined by the order of the Election Commission made under the provisions of the State of Nagaland Act, 1962; and the extent of each assembly constituency in each of the States of Haryana, Punjab and Himachal Pradesh shall be as determined by the order of the Delimitation Commission made under the provisions of the Punjab Reorganisation Act, 1966, and the extent of each assembly constituency in any other State shall be as determined by the order of the Delimitation Commission made under the provisions of the Delimitation Commission Act, 1962, or, as the case may be, under the provisions of the Government of Union Territories Act, 1963.

27 of 1962.

31 of 1966.

61 of 1962.
20 of 1963.

THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER

Consolidation of delimitation orders.

8. (*1*) As soon as may be, after all the orders referred to in sub-section (5) of section 4 or in sub-section (3) of section 7 relating to the delimitation of parliamentary and assembly constituencies have been made by the Delimitation Commission or, as the case may be, the Election Commission and published in the Official Gazette, the Election Commission shall, after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 1966 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of section 4 or in sub-section (3) of section 7 and shall have the force of law and shall not be called in question in any court.

(*2*) As soon as may be, after the said Order is received by the Central Government or by the Government of a State, that Government shall cause it to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State.

Power of Election Commission to maintain Delimitation Order up-to-date.

9. (*1*) The Election Commission may, from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned,—

(*a*) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, or any error arising therein from inadvertent slip or omission;

(*b*) where the boundaries or name of any district or any territorial division mentioned in the Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.

(*2*) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.".

Insertion of new section 13AA. District

5. After section 13A of the 1950-Act, the following section shall be inserted, namely:—

"13AA. (*1*) For each district in a State, other than a Union territory, the Election Commission shall, in consultation with

the Government of the State, designate or nominate a district election officer who shall be an officer of Government: election officers.

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

(*2*) Where more than one district election officer are designated or nominated for a district under the proviso to sub-section (*1*), the Election Commission shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(*3*) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.

(*4*) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.".

6. In section 13B of the 1950-Act, in sub-section (*1*), for the words "for a parliamentary constituency in each of the Union territories of Delhi, the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli", the words "for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly" shall be substituted. Amendment of section 13B.

7. For section 13D of the 1950-Act, the following section shall be substituted, namely:— Substitution of new section for section 13D.

"13D. (*1*) The electoral roll for every parliamentary constituency, other than a parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly, shall consist of the electoral rolls for all the assembly constituencies comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency: Electoral rolls for parliamentary constituencies.

Provided that for the period referred to in clause (2) of article 371A, it shall be necessary to prepare and revise separately the electoral roll for that part of the parliamentary constituency of Nagaland which comprises the Tuensang district and the provisions of Part III shall apply in relation to the preparation and revision of the electoral roll of the said part as they apply in relation to an assembly constituency.

(2) The provisions of Part III shall apply in relation to every parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly as they apply in relation to an assembly constituency.".

Amendment of section 20.

8. In section 20 of the 1950—Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.";

(b) in sub-section (4), the words "or any person who is employed under the Government of India in a post outside India," and the words "or employment" shall be omitted;

(c) in sub-section (5),—

(i) for the words "but for his service in the armed forces or, as the case may be, the armed police force", the words "but for his having the service qualification" shall be substituted;

(ii) the words "or being employed in any such post" shall be omitted; and

(iii) for the words "conclusive evidence of that fact", the words "accepted as correct" shall be substituted;

(d) after sub-section (6), the following sub-sections shall be inserted, namely:—

'(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.

(8) In sub-sections (3) and (5) "service qualification" means—

(*a*) being a member of the armed forces of the Union; or

(*b*) being a member of a force to which the provisions of the Army Act, 1950, have been made applicable whether with or without modifications; or

46 of 1950.

(*c*) being a member of an armed police force of a State, who is serving outside that State; or

(*d*) being a person who is employed under the Government of India, in a post outside India.'.

Amendment of section 21.

9. In section 21 of the 1950-Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(*2*) The said electoral roll—

(*a*) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(*i*) before each general election to the House of the People or to the Legislative Assembly of a State; and

(*ii*) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

(*b*) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.".

Substitution of new section for section 23.

10. For section 23 of the 1950-Act, the following section shall be substituted, namely:—

Inclusion of names in electoral rolls.

"23. (*1*) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(*2*) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion

of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.".

Amendment of section 24.

11. In section 24 of the 1950-Act, the word "and" occurring at the end of clause (*a*) shall be omitted and clause (*b*) shall be omitted.

Amendment of section 28.

12. In section 28 of the 1950-Act, in sub-section (2), for clause (*a*), the following clauses shall be substituted, namely:—

"(*a*) the determination of ordinary residence under sub-section (7) of section 20;

(*aa*) the particulars to be entered in the electoral rolls;".

Substitution of new Schedule for First Schedule.

13. For the First Schedule to the 1950-Act, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

(*See* section 3)

Allocation of seats in the House of the People

Name of State, Union territory or area	Number of seats in the House as constituted on the 1st November, 1966			Number of seats in the House as subsequently constituted		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
I. *STATES*:						
1. Andhra Pradesh	43	6	2	41	6	2
2. Assam . .	12	1	2	14	1	2
3. Bihar . .	53	7	5	53	7	5
4. Gujarat . .	22	1	3	24	2	3
5. Haryana . .	8	2	..	9	2	..
6. Jammu and Kashmir . .	6	..	..	6	..	..
7. Kerala . .	18	2	..	19	2	..
8. Madhya Pradesh	36	5	7	37	5	8
9. Madras . .	41	7	..	39	7	..
10. Maharashtra .	44	6	2	45	3	3
11. Mysore . .	26	3	..	27	4	..
12. Nagaland .	1	..	..	1	..	..
13. Orissa . .	20	4	4	20	3	5
14. Punjab . .	13	3	..	13	3	..
15. Rajasthan .	22	3	2	23	4	3
16. Uttar Pradesh .	86	18	..	85	18	..
17. West Bengal .	36	6	2	40	8	2

1	2	3	4	5	6	7
II. *UNION TERRITORIES*:						
1. Andaman and Nicobar Islands .	1	..	..	1	..	..
2. Chandigarh .	..	..	..	1	..	..
3. Dadra and Nagar Haveli . .	1	..	..	1	..	1
4. Delhi . .	5	1	..	7	1	..
5. Goa, Daman and Diu . .	2	..	..	2	..	..
6. Himachal Pradesh	5	1	..	6	1	..
7. Laccadive, Minicoy and Amindivi Islands. . .	1	..	..	1	..	1
8. Manipur . .	2	..	1	2	..	1
9. Pondicherry .	1	..	..	1	..	..
10. Tripura . .	2	..	1	2	..	1
III.—*AREA* :						
North East Frontier Tract . .	1	..	..	1	..	..
TOTAL .	508	76	31	521	77	37.".

14. For the Second Schedule to the 1950-Act, the following Schedule shall be substituted, namely:— Substitution of new Schedule for second Schedule.

"THE SECOND SCHEDULE

(*See* section 7)

Total number of seats in the Legislative Assemblies

Name of the State/ Union territory	Number of seats in the Legislative Assembly as constituted on the 1st November, 1966			Number of seats in the Legislative Assembly as subsequently constituted		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
I. *STATES* :						
1. Andhra Pradesh	300	43	11	287	40	11
2. Assam . .	105	5	23	126	8	10

1	2	3	4	5	6	7
3. Bihar . .	318	40	32	318	45	29
4. Gujarat . .	154	11	21	168	11	22
5. Haryana . .	54	10	..	81	15	..
6. Kerala . .	133	11	2	133	11	2
7. Madhya Pradesh	288	43	54	296	39	61
8. Madras . .	206	37	1	234	42	2
9. Maharashtra .	264	33	14	270	15	16
10. Mysore . .	208	28	1	216	29	2
11. Nagaland .	46	..	..	46	..	..
12. Orissa . .	140	25	29	140	22	34
13. Punjab . .	87	20	..	104	23	..
14. Rajasthan .	176	28	20	184	31	21
15. Uttar Pradesh .	430	89	..	425	89	..
16. West Bengal .	252	45	15	280	56	17
II. *UNION TERRITORIES* :						
1. Goa, Daman and Diu . .	30	..	..	30	..	..
2. Himachal Pradesh	54	14	2	60	14	3
3. Manipur . .	30	..	..	30	..	9
4. Pondicherry .	30	5	..	30	5	..
5. Tripura . .	30	..	..	30	3	9.".

CHAPTER III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of section 2.

15. In section 2 of the Representation of the People Act, 1951 (hereafter in this Chapter referred to as the 1951-Act), 43 of 1951.—

(*a*) in sub-section (*1*),—

(*i*) after clause (*c*), the following clause shall be inserted, namely:—

'(*cc*) "district election officer" means the officer designated or nominated under section 13AA of the Representation of the People Act, 1950;'; 43 of 1950

(*ii*) after clause (*g*), the following clause shall be inserted, namely:—

'(*h*) "public holiday" means any day which is a public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881;'; 26 of 1881.

(*iii*) clause (*k*) shall be omitted;

(*b*) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.".

Substitution of new heading for heading of Part II.

16. In Part II of the 1951-Act, for the heading "QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP", the heading "QUALIFICATIONS AND DISQUALIFICATIONS" shall be substituted.

Amendment of section 3

17. In section 3 of the 1951-Act, the brackets and words "(other than the State of Jammu and Kashmir)" shall be omitted.

Amendment of section 4.

18. In section 4 of the 1951-Act,—

(*a*) the words "to the State of Jammu and Kashmir, or" shall be omitted;

(*b*) in clause (*c*), the word "and" occurring at the end shall be omitted;

(*c*) after clause (*c*), the following clause shall be inserted, namely:—

"(cc) in the case of the seat reserved for the Scheduled Tribes in the Union territory of the Laccadive, Minicoy and Amindivi Islands, he is a member of any of those Scheduled Tribes and is an elector for the parliamentary constituency of that Union territory; and".

Amendment of section 5

19. In section 5 of the 1951-Act, in clause (*b*), for the words "Scheduled Tribe of that district", the words "Scheduled Tribe of any autonomous district" shall be substituted.

Substitution of new Chapters for Chapter III of Part II.

20. In Part II of the 1951-Act, for Chapter III, the following Chapters shall be substituted, namely:—

'CHAPTER III

DISQUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT AND STATE LEGISLATURES

Definitions.

7. In this Chapter,—

(*a*) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government;

(*b*) "disqualified" means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

Disqualification on conviction for certain offences.

8. (*1*) A person convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (*a*) of sub-section (2) of section 136 of this Act shall be disqualified for a period of six years from the date of such conviction. 45 of 1860.

(2) A person convicted by a court in India for any offence and sentenced to imprisonment for not less than two years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of five years since his release.

(3) Notwithstanding anything in sub-section (*1*) and sub-section (2), a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

Disqualification for corrupt practice.

8A. A person found guilty of a corrupt practice, by an order under section 99, shall be disqualified for a period of six years from the date on which that order takes effect.

Disqualification for dismissal for corruption or disloyalty.

9. (*1*) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

(2) For the purposes of sub-section (*1*), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of that fact:

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

Disqualification for contracts with government or government company, etc.

9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by himself or by any person or body of persons in trust for him or for his benefit or on his account in the course of trade or business with the appropriate Government or with any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share, for the supply of goods or animals to, or for the execution of any works or the performance of any services undertaken by, the appropriate Government or by such company or corporation.

Disqualification for office under Government company.

10. A person shall be disqualified if, and for so long as, he is a *managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share.

Disqualification for failure to lodge account of election expenses.

10A. If the Election Commission is satisfied that a person—

(*a*) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and

(*b*) has no good reason or justification for the failure,

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

Removal or reduction of period of disqualification.

11. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

CHAPTER IV

DISQUALIFICATIONS FOR VOTING

Disqualification arising out of conviction and corrupt practices.

11A. If any person, after the commencement of this Act,—

(*a*) is convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (*a*) of sub-section (2) of section 136 of this Act, or

of 1860.

(*b*) is found guilty of a corrupt practice by an order under section 99,

he shall, for a period of six years from the date of the conviction or from the date on which the order takes effect, be disqualified for voting at any election.

Removal of disqualifications.

11B. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter.'.

Insertion of new section 19A.

21. After section 19 of the 1951-Act, the following section shall be inserted, namely:—

Delegation of functions of Election Commission.

"19A. The functions of the Election Commission under the Constitution, the Representation of the People Act, 1950 and this Act or under the rules made thereunder may, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission.". 43 of 1950.

Insertion of new section 20A.

22. After section 20 of the 1951-Act, the following section shall be inserted, namely:—

General duties of district election officer.

"20A. (*1*) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

(*2*) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.".

Amendment of section 21.

23. In section 21 of the 1951-Act, for the words "an officer of Government", the words "an officer of Government or of a local authority" shall be substituted.

Amendment of section 22.

24. In section 22 of the 1951-Act, in the proviso to sub-section (*1*), for the words "an officer of Government", the words "an officer of Government or of a local authority" shall be substituted.

Substitution of new section for section 25.

25. For section 25 of the 1951-Act, the following section shall be substituted, namely:—

"25. The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency, the whole or greater part of which lies within his jurisdiction, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.". Provision of polling stations for constituencies.

26. In section 26 of the 1951-Act,— Amendment of section 26.

(*a*) for the words "returning officer", wherever they occur, the words "district election officer" shall be substituted;

(*b*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Any reference to a district election officer in section 25 and in this section shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency.".

27. In section 30 of the 1951-Act,— Amendment of section 30.

(*a*) in clause (*b*), for the words "the second day after", the words "the day immediately following" shall be substituted;

(*b*) in clause (*c*), for the words "the third day", the words "the second day" shall be substituted;

* * * * *

(*c*) the *Explanation* shall be omitted.

28. In section 31 of the 1951-Act, the words "for the constituency" shall be omitted. Amendment of section 31.

29. In section 33 of the 1951-Act,— Amendment of section 33.

(*a*) to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.";

(*b*) in sub-section (*4*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person

in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.".

Amendment of section 39.

30. In section 39 of the 1951-Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*b*), for the words "the second day after", the words "the day immediately following" shall be substituted;

(*ii*) in clause (*c*), for the words "the third day", the words "the second day" shall be substituted;

(*iii*) the *Explanation* shall be omitted;

(*b*) in sub-section (*2*), after clause (*a*) of the proviso, the following clause shall be inserted, namely:—

"(*aa*) in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State, clause (*a*) of sub-section (*2*) of section 36 shall be construed as including a reference to sub-clause (*d*) of clause (*3*) of article 171;".

Substitution of new section for section 41.

31. For section 41 of the 1951-Act, the following section shall be substituted, namely:—

Disqualification for being an election agent.

"41. Any person who is for the time being disqualified under the Constitution or under this Act for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.".

Amendment of section 52.

32. In section 52 of the 1951-Act, for the words "If a contesting candidate dies", the words and figures "If a candidate whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies and a report of his death is received before the publication of the list of

contesting candidates under section 38, or if a contesting candidate dies" shall be substituted.

Amendment of section 60.

33. In section 60 of the 1951-Act, in clause (*a*), for sub-clauses (*i*), (*iii*) and (*iv*), the following sub-clauses shall be substituted, namely:—

"(*i*) any person to whom the provisions of sub-section (*3*) of section 20 of the Representation of the People Act, 1950 apply;

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(*ii*) the wife of any such person as is referred to in sub-clause (*i*) to whom the provisions of sub-section (*6*) of the said section 20 apply;".

Insertion of new section 64A.

34. After section 64 of the 1951-Act, the following section shall be inserted, namely:—

Destruction, loss, etc., of ballot papers at the time of counting.

"64A. (*1*) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the Election Commission.

(*2*) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

(*a*) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(*b*) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(*3*) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.".

Amendment of section 66.

35. In section 66 of the 1951-Act, for the words "shall forthwith declare", the words "shall, in the absence of any direction by the Election Commission to the contrary, forthwith declare" shall be substituted.

Amendment of section 78.

36. Section 78 of the 1951-Act shall be re-numbered as sub-section (*1*) thereof and—

(*a*) in sub-section (*1*) as so re-numbered, for the words "returning officer" the words "district election officer" shall be substituted;

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) The reference to the district election officer in sub-section (*1*) shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency.".

Amendment of section 79.

37. In section 79 of the 1951-Act,—

(*a*) for the words and figures "Parts VII and VIII", the word and figures "Part VII" shall be substituted;

(*b*) before clause (*b*), the following clause shall be inserted, namely:—

"(*a*) any reference to a High Court or to the Chief Justice or Judge of a High Court shall, in relation to a Union territory having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be;";

(*c*) in clause (*d*), for the words "to withdraw", the words "to withdraw or not to withdraw" shall be substituted;

(*d*) for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "High Court" means the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held;'.

Insertion of new section 80A.

38. After section 80 of the 1951-Act, the following section shall be inserted, namely:—

High Court to try election petitions.

"80A. (*1*) The Court having jurisdiction to try an election petition shall be the High Court.

(*2*) Such jurisdiction shall be exercised ordinarily by a single Judge of the High Court and the Chief Justice shall, from time to time, assign one or more Judges for that purpose:

Provided that where the High Court consists only of one Judge, he shall try all election petitions presented to that Court.

(*3*) The High Court may, in the interests of justice or convenience, try an election petition, wholly or partly, at a place other than the place of seat of the High Court.".

39. In section 81 of the 1951-Act,— Amendment of section 81.

(*a*) in sub-section (*1*), for the words "Election Commission", the words "High Court" shall be substituted;

(*b*) sub-section (*2*) shall be omitted;

(*c*) in sub-section (*3*), the words "and one more copy for the use of the Election Commission" shall be omitted.

40. Section 85 of the 1951-Act shall be omitted. Omission of section 85.

41. For sections 86 to 92 of the 1951-Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 86 to 92.

"86. (*1*) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117. Trial of election petitions.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (*a*) of section 98.

(*2*) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (*2*) of section 80A.

(*3*) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(*4*) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

(*5*) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not

allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

Procedure before the High Court.

87. (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits: 5 of 1908.

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.". 1 of 1872

Amendment of sections 95, 96, 97, 98, 99, 100, 101 and 102.

42. In sections 95, 96, 97, 98, 99, 100, 101 and 102 of the 1951-Act, for the words "the Tribunal", wherever they occur, the words "the High Court" shall be substituted.

Substitution of new sections for section 103.

43. For section 103 of the 1951-Act, the following sections shall be substituted, namely:—

Communication of orders of the High Court.

"103. The High Court shall, as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and, as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision.".

104. Notwithstanding anything contained in the Letters Patent of the High Court or any other law for the time being in force, every order of the High Court under this Act shall be final and conclusive.". Orders of High Court to be final and conclusive

4. In sections 106 and 107 of the 1951-Act, for the words "the Tribunal", wherever they occur, the words "the High Court" shall be substituted. Amendment of sections 106 and 107.

45. Section 108 of the 1951-Act shall be omitted. Omission of section 108

46. For sections 109 and 110 of the 1951-Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 109 and 110.

"109. (*1*) An election petition may be withdrawn only by leave of the High Court. Withdrawal of election petitions.

(*2*) Where an application for withdrawal is made under sub-section (*1*), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

110. (*1*) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners. Procedure for withdrawal of election petitions.

(*2*) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.

(*3*) If the application is granted—

(*a*) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the High Court may think fit;

(*b*) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing,

and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.".

Amendment of section 111.

47. In section 111 of the 1951-Act, for the words "the Tribunal", wherever they occur, the words "the High Court" shall be substituted.

Substitution of new section for sections 112 to 116.

48. For sections 112, 113, 114 and 115 of the 1951-Act, the following section shall be substituted, namely:—

Abatement of election petitions.

"112. (*1*) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(*2*) Where an election petition abates under sub-section (*1*), the High Court shall cause the fact to be published in such manner as it may deem fit.

(*3*) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.".

Amendment of section 116.

49. In section 116 of the 1951-Act, for the words "the Tribunal", in both the places where they occur, the words "the High Court" shall be substituted.

Omission of Chapter IVA of Part VI.

50. Chapter IVA of Part VI of the 1951-Act shall be omitted.

Substitution of new sections for sections 117, 118, 119, 119A and 120.

51. For sections 117, 118, 119, 119A and 120 of the 1951-Act, the following sections shall be substituted, namely:—

Security for costs.

"117. (*1*) At the time of presenting an election petition, the petitioner shall deposit in the High Court in accordance with the

rules of the High Court a sum of two thousand rupees as security for the costs of the petition.

(*2*) During the course of the trial of an election petition, the High Court may, at any time, call upon the petitioner to give such further security for costs as it may direct.

Security for costs from a respondent.

118. No person shall be entitled to be joined as a respondent under sub-section (*4*) of section 86 unless he has given such security for costs as the High Court may direct.

Costs.

119. Costs shall be in the discretion of the High Court:

Provided that where a petition is dismissed under clause (*a*) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the High Court shall make an order for costs in favour of the returned candidate.".

Amendment of section 121.

52. In section 121 of the 1951-Act, for the words "the Election Commission", wherever they occur, the words "the High Court" shall be substituted.

Amendment of section 123.

53. In section 123 of the 1951-Act,—

(*a*) in clause (*1*) (*A*),—

(*i*) in sub-clause (*a*), for the words "to withdraw", the words "to withdraw or not to withdraw" shall be substituted;

(*ii*) in sub-clause (*i*), for the words "having withdrawn", the words "having withdrawn or not having withdrawn" shall be substituted;

(*b*) in clause (*1*) (*B*),—

(*i*) in sub-clause (*a*), for the word "withdrawing", the words "withdrawing or not withdrawing" shall be substituted;

(*ii*) in sub-clause (*b*), for the words "to withdraw", the words "to withdraw or not to withdraw" shall be substituted;

(*c*) in clause (*5*), for the words "for the conveyance", the words "or the use of such vehicle or vessel for the free conveyance" shall be substituted;

(*d*) in clause (*2*) of the *Explanation* at the end of the section, the words ", or a polling agent or a counting agent" shall be omitted.

Amendment of section 126.

54. In section 126 of the 1951-Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-two hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.".

Amendment of section 129

55. In section 129 of the 1951-Act,—

(*a*) in sub-section (*1*), for the words "a returning officer", the words "a district election officer or a returning officer" shall be substituted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) An offence punishable under sub-section (*3*) shall be cognizable.".

Amendment of section 130.

56. In section 130 of the 1951-Act, in sub-section (*1*), for the words "one hundred yards", the words "one hundred metres" shall be substituted.

Amendment of section 133

57. In section 133 of the 1951-Act, for the words "two hundred and fifty rupees", the words "one thousand rupees" shall be substituted.

Amendment of section 134.

58. In section 134 of the 1951-Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) An offence punishable under sub-section (*1*) shall be cognizable.";

(*b*) in sub-section (*3*), for the words "returning officers", the words "district election officers, returning officers" shall be substituted.

Insertion of new section 134A.

59. After section 134 of the 1951-Act, the following section shall be inserted, namely:—

Penalty for Government servants for acting as election agent, polling agent or counting agent.

"134A. If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.".

60. In section 136 of the 1951-Act, for sub-section (4), the following sub-section shall be substituted, namely:— Amendment of section 136.

"(4) An offence punishable under sub-section (2) shall be cognizable.".

61. Section 137 of the 1951-Act shall be omitted: Omission of section 137 and saving.

Provided that such omission shall not affect any inquiry or other proceeding under the said section pending immediately before such omission and any such inquiry or other proceeding may be continued and any prosecution may be instituted as a result of such inquiry or other proceeding and any penalty or punishment may be imposed under and in accordance with the said section as if that section had not been omitted.

62. In Part VIII of the 1951-Act, Chapters I, II and III shall be omitted. Omission of Chapters I, II and III of Part VIII.

63. Save as otherwise provided in this Act, nothing herein shall apply to any election which has been called before the commencement of this Act or to any election petition arising out of such election, whether such petition is pending at such commencement or is presented afterwards, and all such elections shall be held and petitions tried, and all matters in connection with such elections or petitions (including the constitution of Election Tribunals) shall be regulated, in accordance with the provisions of the law in force immediately before such commencement. Act not to apply to pending elections, etc.

S. L. SHAKDHER,
Secretary.

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